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DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

AUG 14 2013

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Uniform Issue List: 408.03-00

XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A               = XXXXXXXXXXXXXXXXXXXX  
IRA B                     = XXXXXXXXXXXXXXXXXXXX  
Bank C                   = XXXXXXXXXXXXXXXXXXXX  
Account D               = XXXXXXXXXXXXXXXXXXXX  
Bank E                   = XXXXXXXXXXXXXXXXXXXX  
Amount 1                = XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This is in response to your request dated March 25, 2013, as supplemented by correspondence dated May 13, 2013, from your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he received a distribution totaling Amount 1 from IRA B maintained by Financial Institution C. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to incorrect instructions received from a representative of Financial Institution E. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A represents that he had an IRA account held in a Certificate of Deposit ("CD") at Bank C. Prior to the maturation of the IRA-CD, Taxpayer A had a telephone conversation with a representative of Bank E to discuss alternative investment options, but intended to keep the amount in an IRA. Taxpayer A represents he told the representative that he wished to set up an IRA-CD

account with Financial Institution E. Based on verbal instructions from a representative of Bank E, Taxpayer A opened a new account, intending it to be an IRA. Taxpayer A states that he verbally confirmed with the representative that the new account created would be an IRA-CD account. However, due to the incorrect instructions received from a representative of Bank E, the account created, Account D, was in fact, a non-IRA account. Taxpayer A then requested a total distribution from Bank C in order to deposit it into the new account created with Bank E. Bank C issued a check payable to Taxpayer A for Amount 1 which he signed and provided to Bank E to fund Account D, a non-IRA account. Taxpayer A discovered the error, in 2013, when he received a 1099-R indicating the taxable distribution. Amount 1 remains in Account D with Bank E.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA B.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if -

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to sections 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A are consistent with his assertion that his failure to accomplish a timely rollover of Amount 1 was caused by incorrect instructions received by a representative of Bank E which led to Amount 1 to be deposited into a non-IRA account. Therefore, Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into a Rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount 1 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

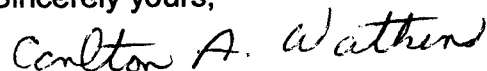
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter is being sent to your authorized representative pursuant to a Power of Attorney on file in this office.

If you wish to inquire about this ruling, please contact XXXXXXXXXXXX (ID XXXXXXXXXXXX) at ( ) . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose